108TH CONGRESS
1ST SESSION

S. 1635

To amend the Immigration and Nationality Act to ensure the integrity of the L–1 visa for intracompany transferees.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 17, 2003

Mr. CHAMBLISS introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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A BILL

To amend the Immigration and Nationality Act to ensure the integrity of the L–1 visa for intracompany transferees.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''L–1 Visa (Intracompany Transferee) Reform Act of 2003''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) A key purpose of the visa issued to nonimmigrants described in section 101(a)(15)(L) of the Immigration and Nationality Act (commonly

known as the ''L–1 visa'') is to provide multinational companies with a means to transfer into the United States, foreign workers whose presence is necessary because of the specialized knowledge those workers have gained with respect to the products, processes, or procedures of their employer.

(2) The L–1 visa plays an important role in the economy of the United States by bringing the most talented and essential persons to work on United States projects and keeping United States businesses competitive throughout the world.

(3) The L–1 visa facilitates foreign investment in the United States to build factories and open offices, to employ United States workers at those facilities, and to contribute tax revenue to State budgets.

(4) The L–1 visa brings persons essential to product research and development to the United States which permits operations to remain in this country rather than moving offshore.

(5) Due to the very nature of the L–1 visa as Congress intended it and as properly used, employees in this classification do not displace United States workers, and they should not be regarded as

new hires since they, instead, are transferees within a company.

(6) In certain circumstances, however, misuse of the L–1 visa has resulted in the displacement of United States workers.

(7) Misuse of the L–1 visa classification has involved only certain employees who were admitted on the basis of specialized knowledge and were working offsite, not those working at the site of the petitioning employer or its affiliate, subsidiary, or parent.

(8) Misuse has occurred when the foreign worker has been principally controlled and supervised by an unaffiliated company.

(9) Misuse has occurred where the placement of the L–1 employee is part of an arrangement to simply provide labor in a context that does not require specialized knowledge particular to the petitioning employer.

SEC. 3. NONIMMIGRANT L–1 VISA CATEGORY.

(a) IN GENERAL.—Section 214(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(2)) is amended by adding at the end the following:

''(F) An alien who will serve in a capacity involving specialized knowledge with respect to an employer for pur-

poses of section 101(a)(15)(L) and will be stationed primarily at the worksite of an employer other than the petitioning employer or its affiliate, subsidiary, or parent shall not be eligible for classification under section 101(a)(15)(L) if—

''(i) the alien will be controlled and supervised principally by such unaffiliated employer; or

''(ii) the placement of the alien at the worksite of the unaffiliated employer is part of an arrangement merely to provide labor for the unaffiliated employer rather than in connection with the provision of a product or service for which specialized knowledge specific to the petitioning employer is necessary.''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to petitions filed on or after the effective date of this Act, whether for initial, extended, or amended classification.

SEC. 4. REQUIREMENT FOR PRIOR CONTINUOUS EMPLOYMENT FOR CERTAIN INTRACOMPANY TRANSFEREES.

(a) IN GENERAL.—Section 214(c)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1184(c)(2)(A)) is amended by striking the last sentence (relating to reduc-

tion of the 1-year period of continuous employment abroad to 6 months).

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply only to petitions for initial classification filed on or after the effective date of this Act.

SEC. 5. MAINTENANCE OF STATISTICS BY THE DEPARTMENT OF HOMELAND SECURITY.

(a) IN GENERAL.—The Department of Homeland Security shall maintain statistics regarding petitions filed, approved, extended, and amended with respect to nonimmigrants described in section 101(a)(15)(L) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(L)), including the number of such nonimmigrants who are classified on the basis of specialized knowledge and the number of nonimmigrants who are classified on the basis of specialized knowledge in order to work primarily at offsite locations.

(b) APPLICABILITY.—Subsection (a) shall apply to petitions filed on or after the effective date of this Act.

SEC. 6. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 180 days after the date of enactment of this Act.

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